

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JEFFREY DESKOVIC,

Plaintiff,

-against-

CITY OF PEEKSKILL, PUTNAM COUNTY,
WESTCHESTER COUNTY, DAVID LEVINE,
THOMAS McINTYRE, WALTER BROVARSKI,
EUGENE TUMOLO, JOHN AND JANE DOE
SUPERVISORS, DANIEL STEPHENS, LOUIS
ROH, MILLARD HYLAND, and ALAN TWEED,

Defendants.
-----X

**ANSWER AND
CROSS-CLAIMS**

Docket No.
07 Civ. 8150 (KMK)

Defendants CITY OF PEEKSKILL, DAVID LEVINE, THOMAS McINTYRE,
WALTER BROVARSKY, and EUGENE TUMOLO, by their attorneys, MIRANDA
SOKOLOFF SAMBURSKY SLONE VERVENIOTIS, LLP, as and for their answer to the
complaint in the above-captioned action, sets forth as follows:

1. Deny the allegations contained in ¶ “1” of the complaint.
2. Deny the allegations contained in ¶ “2” of the complaint.
3. Deny the allegations contained in ¶ “3” of the complaint.
4. Deny the allegations contained in ¶ “4” of the complaint.
5. Deny the allegations contained in ¶ “5” of the complaint.
6. Deny the allegations contained in ¶ “6” of the complaint.
7. Deny the allegations contained in ¶ “7” of the complaint.
8. Deny the allegations contained in ¶ “8” of the complaint.
9. Deny the allegations contained in ¶ “9” of the complaint.

10. Deny the allegations contained in ¶ “10” of the complaint.

11. Deny the allegations contained in ¶ “11” of the complaint, and refer all questions of law to the Court for adjudication.

12. Deny the allegations contained in ¶ “12” of the complaint, and refer all questions of law to the Court for adjudication.

13. Admit the allegations contained in ¶ “13” of the complaint.

14. Admit the allegations contained in ¶ “14” of the complaint.

15. Deny the allegations contained in ¶ “15” of the complaint, and refer all questions of law to the Court for adjudication.

16. Deny the allegations contained in ¶ “16” of the complaint, and refer all questions of law to the Court for adjudication.

17. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “17” of the complaint.

18. Deny the allegations contained in ¶ “18” of the complaint, and refer all questions of law to the Court for adjudication.

19. Deny the allegations contained in ¶ “19” of the complaint, and refer all questions of law to the Court for adjudication.

20. Deny the allegations contained in ¶ “20” of the complaint, and refer all questions of law to the Court for adjudication.

21. Deny the allegations contained in ¶ “21” of the complaint.

22. Deny the allegations contained in ¶ “22” of the complaint.

23. Deny the allegations contained in ¶ “23” of the complaint.

24. Deny the allegations contained in ¶ “24” of the complaint.

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “25” of the complaint.

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “26” of the complaint.

27. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “27” of the complaint.

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “28” of the complaint.

29. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “29” of the complaint.

30. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “30” of the complaint, except admit that the family of A.C. contacted the Peekskill Police Department and reported her missing.

31. Deny the allegations contained in ¶ “31” of the complaint.

32. Deny the allegations contained in ¶ “32” of the complaint.

33. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “33” of the complaint.

34. Deny the allegations contained in ¶ “34” of the complaint.

35. Deny the allegations contained in ¶ “35” of the complaint.

36. Deny the allegations contained in ¶ “36” of the complaint.

37. Deny the allegations contained in ¶ “37” of the complaint.

38. Deny the allegations contained in ¶ “38” of the complaint.

39. Deny the allegations contained in ¶ “39” of the complaint.

40. Deny the allegations contained in ¶ “40” of the complaint.

41. Deny the allegations contained in ¶ “41” of the complaint.

42. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “42” of the complaint.

43. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “43” of the complaint.

44. Deny the allegations contained in ¶ “44” of the complaint.

45. Deny the allegations contained in ¶ “45” of the complaint.

46. Deny the allegations contained in ¶ “46” of the complaint.

47. Deny the allegations contained in ¶ “47” of the complaint.

48. Deny the allegations contained in ¶ “48” of the complaint.

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51. Deny the allegations contained in ¶ “51” of the complaint.

52. Deny the allegations contained in ¶ “52” of the complaint.

53. Deny the allegations contained in ¶ “53” of the complaint.

54. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “54” of the complaint.

55. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “55” of the complaint.

56. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “56” of the complaint.

57. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “57” of the complaint.

58. Deny the allegations contained in ¶ “58” of the complaint.

59. Deny the allegations contained in ¶ “59” of the complaint.

60. Deny the allegations contained in ¶ “60” of the complaint.

61. Deny the allegations contained in ¶ “61” of the complaint.

62. Deny the allegations contained in ¶ “62” of the complaint.

63. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “63” of the complaint.

64. Deny the allegations contained in ¶ “64” of the complaint.

65. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “65” of the complaint.

66. Deny the allegations contained in ¶ “66” of the complaint.

67. Deny the allegations contained in ¶ “67” of the complaint.

68. Deny the allegations contained in ¶ “68” of the complaint.

69. Deny the allegations contained in ¶ “69” of the complaint.

70. Deny the allegations contained in ¶ “70” of the complaint.

71. Deny the allegations contained in ¶ “71” of the complaint.

72. Deny the allegations contained in ¶ “72” of the complaint.

73. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “73” of the complaint.

74. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “74” of the complaint.

75. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “75” of the complaint.

76. Deny the allegations contained in ¶ “76” of the complaint.

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91. Deny the allegations contained in ¶ “91” of the complaint.

92. Deny the allegations contained in ¶ “92” of the complaint.

93. Deny the allegations contained in ¶ “93” of the complaint.

94. Deny the allegations contained in ¶ “94” of the complaint.

95. Deny the allegations contained in ¶ “95” of the complaint.

96. Deny the allegations contained in ¶ “96” of the complaint.

97. Deny the allegations contained in ¶ “97” of the complaint.
98. Deny the allegations contained in ¶ “98” of the complaint.
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104. Deny the allegations contained in ¶ “104” of the complaint.
105. Deny the allegations contained in ¶ “105” of the complaint.
106. Deny the allegations contained in ¶ “106” of the complaint.
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108. Deny the allegations contained in ¶ “108” of the complaint.
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112. Deny the allegations contained in ¶ “112” of the complaint.
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115. Deny the allegations contained in ¶ “115” of the complaint.
116. Deny the allegations contained in ¶ “116” of the complaint.
117. Deny the allegations contained in ¶ “117” of the complaint.
118. Deny the allegations contained in ¶ “118” of the complaint.
119. Deny the allegations contained in ¶ “119” of the complaint.

120. Deny the allegations contained in ¶ “120” of the complaint.

121. Deny the allegations contained in ¶ “121” of the complaint.

122. Deny the allegations contained in ¶ “122” of the complaint.

123. Deny the allegations contained in ¶ “123” of the complaint.

124. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “124” of the complaint.

125. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “125” of the complaint.

126. Deny the allegations contained in ¶ “126” of the complaint.

127. Deny the allegations contained in ¶ “127” of the complaint.

128. Deny the allegations contained in ¶ “128” of the complaint.

129. Deny the allegations contained in ¶ “129” of the complaint.

130. Deny the allegations contained in ¶ “130” of the complaint.

131. Deny the allegations contained in ¶ “131” of the complaint.

132. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “132” of the complaint.

133. Deny the allegations contained in ¶ “133” of the complaint.

134. Deny the allegations contained in ¶ “134” of the complaint.

135. Deny the allegations contained in ¶ “135” of the complaint.

136. Deny the allegations contained in ¶ “136” of the complaint.

137. Deny the allegations contained in ¶ “137” of the complaint.

138. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “138” of the complaint.

139. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “139” of the complaint.

140. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “140” of the complaint.

141. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “141” of the complaint.

142. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “142” of the complaint.

143. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “143” of the complaint.

144. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “144” of the complaint.

145. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “145” of the complaint.

146. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “146” of the complaint.

147. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “147” of the complaint.

148. Deny the allegations contained in ¶ “148” of the complaint.

149. Deny the allegations contained in ¶ “149” of the complaint.

150. Deny the allegations contained in ¶ “150” of the complaint.

151. Deny the allegations contained in ¶ “151” of the complaint.

152. Deny the allegations contained in ¶ “152” of the complaint, and refer all questions of law to the Court for adjudication.

153. Deny the allegations contained in ¶ “153” of the complaint, and refer all questions of law to the Court for adjudication.

154. Deny the allegations contained in ¶ “154” of the complaint, and refer all questions of law to the Court for adjudication.

155. Deny the allegations contained in ¶ “155” of the complaint, and refer all questions of law to the Court for adjudication.

156. Deny the allegations contained in ¶ “156” of the complaint, and refer all questions of law to the Court for adjudication.

157. Deny the allegations contained in ¶ “157” of the complaint, and refer all questions of law to the Court for adjudication.

158. Deny the allegations contained in ¶ “158” of the complaint, and refer all questions of law to the Court for adjudication.

159. Deny the allegations contained in ¶ “159” of the complaint, and refer all questions of law to the Court for adjudication.

160. Deny the allegations contained in ¶ “160” of the complaint, and refer all questions of law to the Court for adjudication.

161. Deny the allegations contained in ¶ “161” of the complaint, and refer all questions of law to the Court for adjudication.

162. Deny the allegations contained in ¶ “162” of the complaint, and refer all questions of law to the Court for adjudication.

163. Deny the allegations contained in ¶ “163” of the complaint, and refer all questions of law to the Court for adjudication.

COUNT I

164. As and for a response to the allegations contained in ¶ “164” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “163” of the complaint, as though they were fully set forth herein.

165. Deny the allegations contained in ¶ “165” of the complaint, and refer all questions of law to the Court for adjudication.

166. Deny the allegations contained in ¶ “166” of the complaint.

167. Deny the allegations contained in ¶ “167” of the complaint.

168. Deny the allegations contained in ¶ “168” of the complaint.

169. Deny the allegations contained in ¶ “169” of the complaint.

170. Deny the allegations contained in ¶ “170” of the complaint.

171. Deny the allegations contained in ¶ “171” of the complaint, and refer all questions of law to the Court for adjudication.

172. Deny the allegations contained in ¶ “172” of the complaint.

COUNT II

173. As and for a response to the allegations contained in ¶ “173” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “172” of the complaint, as though they were fully set forth herein.

174. Deny the allegations contained in ¶ “174” of the complaint, and refer all questions of law to the Court for adjudication.

175. Deny the allegations contained in ¶ “175” of the complaint, and refer all questions of law to the Court for adjudication.

176. Deny the allegations contained in ¶ “176” of the complaint.

177. Deny the allegations contained in ¶ “177” of the complaint, and refer all questions of law to the Court for adjudication.

178. Deny the allegations contained in ¶ “178” of the complaint, and refer all questions of law to the Court for adjudication.

179. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “179” of the complaint.

180. Deny the allegations contained in ¶ “180” of the complaint, and refer all questions of law to the Court for adjudication.

181. Deny the allegations contained in ¶ “181” of the complaint, and refer all questions of law to the Court for adjudication.

182. Deny the allegations contained in ¶ “182” of the complaint, and refer all questions of law to the Court for adjudication.

183. Deny the allegations contained in ¶ “183” of the complaint, and refer all questions of law to the Court for adjudication.

184. Deny the allegations contained in ¶ “184” of the complaint.

COUNT III

185. As and for a response to the allegations contained in ¶ “185” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “184” of the complaint, as though they were fully set forth herein.

186. Deny the allegations contained in ¶ “186” of the complaint, and refer all questions of law to the Court for adjudication.

187. Deny the allegations contained in ¶ “187” of the complaint.

188. Deny the allegations contained in ¶ “188” of the complaint, and refer all questions of law to the Court for adjudication.

189. Deny the allegations contained in ¶ “189” of the complaint, and refer all questions of law to the Court for adjudication.

190. Deny the allegations contained in ¶ “190” of the complaint, and refer all questions of law to the Court for adjudication.

191. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “191” of the complaint.

192. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “192” of the complaint.

193. Deny the allegations contained in ¶ “193” of the complaint.

194. Deny the allegations contained in ¶ “194” of the complaint.

195. Deny the allegations contained in ¶ “195” of the complaint, and refer all questions of law to the Court for adjudication.

196. Deny the allegations contained in ¶ “196” of the complaint.

COUNT IV

197. As and for a response to the allegations contained in ¶ “197” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “196” of the complaint, as though they were fully set forth herein.

198. Deny the allegations contained in ¶ “198” of the complaint, and refer all questions of law to the Court for adjudication.

199. Deny the allegations contained in ¶ “199” of the complaint.

200. Deny the allegations contained in ¶ “200” of the complaint, and refer all questions of law to the Court for adjudication.

201. Deny the allegations contained in ¶ “201” of the complaint.

COUNT V

202. As and for a response to the allegations contained in ¶ “202” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “201” of the complaint, as though they were fully set forth herein.

203. Deny the allegations contained in ¶ “203” of the complaint, and refer all questions of law to the Court for adjudication.

204. Deny the allegations contained in ¶ “204” of the complaint, and refer all questions of law to the Court for adjudication.

205. Deny the allegations contained in ¶ “205” of the complaint, and refer all questions of law to the Court for adjudication.

206. Deny the allegations contained in ¶ “206” of the complaint.

COUNT VI

207. As and for a response to the allegations contained in ¶ “207” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “206” of the complaint, as though they were fully set forth herein.

208. Deny the allegations contained in ¶ “208” of the complaint, and refer all questions of law to the Court for adjudication.

209. Deny the allegations contained in ¶ “209” of the complaint, and refer all questions of law to the Court for adjudication.

210. Deny the allegations contained in ¶ “210” of the complaint, and refer all questions of law to the Court for adjudication.

211. Deny the allegations contained in ¶ “211” of the complaint, and refer all questions of law to the Court for adjudication.

COUNT VII

212. As and for a response to the allegations contained in ¶ “212” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “211” of the complaint, as though they were fully set forth herein.

213. Deny the allegations contained in ¶ “213” of the complaint, and refer all questions of law to the Court for adjudication.

214. Deny the allegations contained in ¶ “214” of the complaint, and refer all questions of law to the Court for adjudication.

215. Deny the allegations contained in ¶ “215” of the complaint.

COUNT VIII

216. As and for a response to the allegations contained in ¶ “216” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “215” of the complaint, as though they were fully set forth herein.

217. Deny the allegations contained in ¶ “217” of the complaint.

218. Deny the allegations contained in ¶ “218” of the complaint.

219. Deny the allegations contained in ¶ “219” of the complaint.

COUNT IX

220. As and for a response to the allegations contained in ¶ “220” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “221” of the complaint, as though they were fully set forth herein.

221. Deny the allegations contained in ¶ “221” of the complaint, and refer all questions of law to the Court for adjudication.

222. Deny the allegations contained in ¶ “222” of the complaint, and refer all questions of law to the Court for adjudication.

223. Deny the allegations contained in ¶ “223” of the complaint, and refer all questions of law to the Court for adjudication.

224. Deny the allegations contained in ¶ “224” of the complaint, and refer all questions of law to the Court for adjudication.

225. Deny the allegations contained in ¶ “225” of the complaint, and refer all questions of law to the Court for adjudication.

COUNT X

226. As and for a response to the allegations contained in ¶ “226” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “225” of the complaint, as though they were fully set forth herein.

227. Deny the allegations contained in ¶ “227” of the complaint, and refer all questions of law to the Court for adjudication.

228. Deny the allegations contained in ¶ “228” of the complaint, and refer all questions of law to the Court for adjudication.

229. Deny the allegations contained in ¶ “229” of the complaint, and refer all questions of law to the Court for adjudication.

230. Deny the allegations contained in ¶ “230” of the complaint, and refer all questions of law to the Court for adjudication.

231. Deny the allegations contained in ¶ “231” of the complaint, and refer all questions of law to the Court for adjudication.

232. Deny the allegations contained in ¶ “232” of the complaint, and refer all questions of law to the Court for adjudication.

233. Deny the allegations contained in ¶ “233” of the complaint, and refer all questions of law to the Court for adjudication.

234. Deny the allegations contained in ¶ “234” of the complaint, and refer all questions of law to the Court for adjudication.

235. Deny the allegations contained in ¶ “235” of the complaint, and refer all questions of law to the Court for adjudication.

236. Deny the allegations contained in ¶ “236” of the complaint.

COUNT XI

237. As and for a response to the allegations contained in ¶ “237” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “236” of the complaint, as though they were fully set forth herein.

238. Deny the allegations contained in ¶ “238” of the complaint, and refer all questions of law to the Court for adjudication.

239. Deny the allegations contained in ¶ “239” of the complaint, and refer all questions of law to the Court for adjudication.

240. Deny the allegations contained in ¶ “240” of the complaint, and refer all questions of law to the Court for adjudication.

241. Deny the allegations contained in ¶ “241” of the complaint.

COUNT XII

242. As and for a response to the allegations contained in ¶ “242” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “241” of the complaint, as though they were fully set forth herein.

243. Deny the allegations contained in ¶ “243” of the complaint, and refer all questions of law to the Court for adjudication.

244. Deny the allegations contained in ¶ “244” of the complaint, and refer all questions of law to the Court for adjudication.

245. Deny the allegations contained in ¶ “245” of the complaint, and refer all questions of law to the Court for adjudication.

246. Deny the allegations contained in ¶ “246” of the complaint, and refer all questions of law to the Court for adjudication.

247. Deny the allegations contained in ¶ “247” of the complaint, and refer all questions of law to the Court for adjudication.

248. Deny the allegations contained in ¶ “248” of the complaint, and refer all questions of law to the Court for adjudication.

249. Deny the allegations contained in ¶ “249” of the complaint, and refer all questions of law to the Court for adjudication.

250. Deny the allegations contained in ¶ “250” of the complaint.

251. Deny the allegations contained in ¶ “251” of the complaint.

252. Deny the allegations contained in ¶ “252” of the complaint, and refer all questions of law to the Court for adjudication.

253. Deny the allegations contained in ¶ “253” of the complaint.

COUNT XIII

254. As and for a response to the allegations contained in ¶ “254” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “253” of the complaint, as though they were fully set forth herein.

255. Deny the allegations contained in ¶ “255” of the complaint, and refer all questions of law to the Court for adjudication.

256. Deny the allegations contained in ¶ “256” of the complaint, and refer all questions of law to the Court for adjudication.

257. Deny the allegations contained in ¶ “257” of the complaint, and refer all questions of law to the Court for adjudication.

COUNT XIV

258. As and for a response to the allegations contained in ¶ “258” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “257” of the complaint, as though they were fully set forth herein.

259. Deny the allegations contained in ¶ “259” of the complaint, and refer all questions of law to the Court for adjudication.

260. Deny the allegations contained in ¶ “260” of the complaint, and refer all questions of law to the Court for adjudication.

261. Deny the allegations contained in ¶ “261” of the complaint, and refer all questions of law to the Court for adjudication.

COUNT XV

262. As and for a response to the allegations contained in ¶ “262” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “261” of the complaint, as though they were fully set forth herein.

263. Deny the allegations contained in ¶ “263” of the complaint, and refer all questions of law to the Court for adjudication.

264. Deny the allegations contained in ¶ “264” of the complaint, and refer all questions of law to the Court for adjudication.

COUNT XVI

265. As and for a response to the allegations contained in ¶ “265” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “264” of the complaint, as though they were fully set forth herein.

266. Deny the allegations contained in ¶ “266” of the complaint, and refer all questions of law to the Court for adjudication.

267. Deny the allegations contained in ¶ “267” of the complaint, and refer all questions of law to the Court for adjudication.

COUNT XVII

268. As and for a response to the allegations contained in ¶ “268” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “267” of the complaint, as though they were fully set forth herein.

269. Deny the allegations contained in ¶ “269” of the complaint, and refer all questions of law to the Court for adjudication.

270. Deny the allegations contained in ¶ “270” of the complaint, and refer all questions of law to the Court for adjudication.

FIRST AFFIRMATIVE DEFENSE

271. Plaintiff’s complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

272. The individual defendants are entitled to absolute immunity.

THIRD AFFIRMATIVE DEFENSE

273. The individual defendants are entitled to qualified immunity.

FOURTH AFFIRMATIVE DEFENSE

274. Plaintiff’s claims are barred by res judicata and/or collateral estoppel.

FIFTH AFFIRMATIVE DEFENSE

275. Plaintiff has failed to pursue appropriate administrative or state law remedies.

SIXTH AFFIRMATIVE DFEFENSE

276. Plaintiff’s procedural due process claim is barred by the availability of state law remedies.

SEVENTH AFFIRMATIVE DFENSE

277. Plaintiff has failed to mitigate his damages.

EIGHTH AFFIRMATIVE DEFENSE

278. Plaintiff’s claims against the Peekskill defendants are barred because plaintiff cannot demonstrate that any of their actions caused plaintiff to suffer damages.

NINTH AFFIRMATIVE DEFENSE

279. Plaintiff’s claims are barred, in whole or in part, by the statute of limitations.

TENTH AFFIRMATIVE DEFENSE

280. Plaintiff's damages were caused or contributed to by ineffective assistance of counsel at all stages of plaintiff's prosecution.

ELEVENTH AFFIRMATIVE DEFENSE

281. Plaintiff's damages were caused or contributed to by professional legal malpractice committed by his attorneys at all stages of plaintiff's prosecution.

TWELFTH AFFIRMATIVE DEFENSE

282. Plaintiff's damages were caused or contributed to by a conflict of interest on the part of the attorneys representing plaintiff during his prosecution.

THIRTEENTH AFFIRMATIVE DEFENSE

283. Plaintiff's damages were caused or contributed to by the fact that the attorney representing plaintiff in connection with a possible *habeas corpus* petition committed professional malpractice.

FOURTEENTH AFFIRMATIVE DEFENSE

284. Plaintiff's arrest and detention by defendants was lawful, privileged, and authorized by New York State CPL. § 140.10.

FIFTEENTH AFFIRMATIVE DEFENSE

285. Defendants had probable cause to arrest plaintiff.

SIXTEENTH AFFIRMATIVE DEFENSE

286. The injuries, losses, damages, and occurrences alleged in plaintiff's complaint were the result of an independent and intervening cause or causes over which the answering defendants had no control or right to control and in no way participated.

SEVENTEENTH AFFIRMATIVE DEFENSE

287. If plaintiff has been injured and damaged as alleged in the complaint, such injury and damage were caused and contributed to by plaintiff's own conduct, negligence, carelessness, or want of care; and, if it be determined that plaintiff is entitled to recovery herein as against answering defendant, such recovery should be apportioned between plaintiff and answering defendant according to their relative responsibility therefor.

EIGHTEENTH AFFIRMATIVE DEFENSE

288. If plaintiff has been damaged or injured as alleged in the complaint, and such damage or injury was not sustained solely as a result of plaintiff's own negligence, carelessness, culpable conduct, or want of care, such damage and injury were brought about by the negligence, carelessness, culpable conduct, want of care, and intentional acts of third parties over whom the answering defendants had no control and for whose negligence, carelessness, want of care, and intentional criminal acts the answering defendant is not responsible.

NINETEENTH AFFIRMATIVE DEFENSE

289. All hazards and risks incident to the circumstances set forth in plaintiff's complaint were obvious and apparent, and were readily assumed by plaintiff.

TWENTIETH AFFIRMATIVE DEFENSE

290. If any liability is found as against answering defendants, this liability will constitute fifty percent (50%) or less of all liability assigned to all parties liable, and, as such, the liability of answering defendants to plaintiff for non-economic loss shall be limited, and shall not exceed answering defendants' equitable share, as provided in C.P.L.R. Article 16.

TWENTY-FIRST AFFIRMATIVE DEFENSE

291. Defendants had reasonable cause to believe that plaintiff had committed the crime for which plaintiff was arrested and charged.

TWENTY-SECOND AFFIRMATIVE DEFENSE

292. Plaintiff was not deprived of any constitutional or civil rights pursuant to a policy, practice, custom, or procedure of the City of Peekskill.

**AS AND FOR A FIRST CROSS-CLAIM
AGAINST DEFENDANTS PUTNAM
COUNTY, WESTCHESTER COUNTY,
DANIEL STEPHENS, LOUIS ROH,
MILLARD HYLAND, AND ALAN
TWEED, DEFENDANTS ALLEGE:**

293. If plaintiff sustained any injuries as alleged, other than through his own negligence, and if the answering defendants are found liable to plaintiff for any portion of those damages, then such liability shall derive from the carelessness, recklessness, negligence or intentional acts, or commissions or omissions, on the part of the co-defendants Putnam County, Westchester County, Daniel Stephens, Louis Roh, Millard Hyland, and Alan Tweed, without any carelessness, recklessness, negligence or intentional acts, or commissions or omissions on the part of the answering defendants and, accordingly, the answering defendants are entitled to common-law and/or contractual indemnification over and against co-defendants Putnam County, Westchester County, Daniel Stephens, Louis Roh, Millard Hyland, and Alan Tweed for the amount of any such award.

**AS AND FOR A SECOND CROSS-
CLAIM AGAINST DEFENDANTS
PUTNAM COUNTY, WESTCHESTER
COUNTY, DANIEL STEPHENS, LOUIS
ROH, MILLARD HYLAND, AND ALAN
TWEED, DEFENDANTS ALLEGE:**

294. If plaintiff sustained the damages in the manner and at the time and place alleged through any carelessness, recklessness, negligence or intentional acts, or commissions or omissions other than plaintiff's own, then said damages were sustained in whole or in part by reason of the carelessness, recklessness, negligence or intentional acts, or commissions or omissions on the part of co-defendants Putnam County, Westchester County, Daniel Stephens, Louis Roh, Millard Hyland, and Alan Tweed, and, if any judgment is recovered herein against the answering defendants then the answering defendants would be damaged thereby and would be entitled to contribution on the basis of apportionment of responsibility for the alleged occurrence and entitled to judgment over and against co-defendants Putnam County, Westchester County, Daniel Stephens, Louis Roh, Millard Hyland, and Alan Tweed, for all or part of any verdict or judgment that plaintiff may recover against the answering defendant, together with costs, disbursements and attorneys' fees for this action.

Dated: Mineola, New York
December 4, 2007

MIRANDA SOKOLOFF SAMBURSKY
SLONE VERVENIOTIS, LLP

Attorneys for Defendants

By: 

BRIAN S. SOKOLOFF (bss-7147)

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TO: COCHRAN, NEUFELD & SCHECK, LLP
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SANTANGELO, RANDAZZO & MANGONE
Attorneys for Putnam County Defendants
151 Broadway
Hawthorne, New York 10532

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
) s.s.:
COUNTY OF NASSAU)

MERLISA ANDREWS, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides in Jamaica, New York.

That on December 4, 2007, deponent served the within **ANSWER** upon:

COCHRAN, NEUFELD & SCHECK, LLP
Attorneys for Plaintiff
99 Hudson Street
New York, NY 10013

OXMAN TULIS KIRKPATRICK WHYATT & GEIGER LLP
Attorneys for Westchester County Defendants
120 Bloomingdale Road
White Plains, NY 10605

SANTANGELO, RANDAZZO & MANGONE
Attorneys for Putnam County Defendants
151 Broadway
Hawthorne, NY 10532

the addresses designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.



MERLISA ANDREWS

Sworn to before me this 4th day
Of December, 2007.



NOTARY PUBLIC

BRIAN S. SOKOLOFF
Notary Public, State of New York
No. 02SO4914710
Qualified in Queens County
Commission Expires November 23, 2009